

Title	Guidelines for the Operation of the Family Law Information Centers (adopt Cal. Standards of Jud. Admin § 40)
Summary	This proposal establishes ethical guidelines for the operation of the three family law information centers in accordance with the Rules of Professional Conduct, as required by Family Code section 15010(f).
Source	Family and Juvenile Law Advisory Committee
Staff	Michael Fischer, 415-865-7685 Bonnie Hough, 415-865-7668
Discussion	<p>Family Code sections 15000 – 15012 established three pilot family law information centers for unrepresented low-income family law litigants to be administered by the Judicial Council. The information provided by the centers includes types of relief available through the family court, what pleadings must be filed to obtain that relief, how to enforce court orders, and what requirements exist for proper service of court papers. The centers also provide referrals to community resources and assistance in preparing orders after court proceedings, and they encourage parties to seek legal advice and assistance from an independent attorney.</p> <p>Family Code section 15010(b)(2) requires that family law information centers be supervised by an active member of the State Bar in good standing. However, section 15010(g) provides that “[t]he family law information center shall not represent any party. No attorney-client relationship is created between a party and the family law information center as a result of any information or services provided to the party by the family law information center pursuant to subdivision (c).”</p> <p>Family Code section 15010(f) states that “[t]he Judicial Council shall promulgate guidelines for the operation of the family law information center in accordance with the Rules of Professional Conduct.” The proposed standard sets forth these guidelines.</p> <p>Given the statutory limitations on the nature of the services provided and the specific role of the centers as an arm of the superior court, the principles set forth in the California Code of Judicial Ethics are often more applicable to the centers than are the Rules of Professional Conduct of the State Bar of California.</p> <p>The committee is particularly interested in comments regarding whether these guidelines should be extended to (1) family law facilitator</p>

	programs and (2) other court-based self-help centers that structure their services so as to not form an attorney-client relationship with litigants.
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Attachments

Section 40 of the California Standards of Judicial Administration would be adopted effective January 1, 2002 to read:

**§ 40. Guidelines for the operation of family law information centers**

**(a) Guidelines:**

(1) (*Independence and integrity*) An attorney and other staff working in a family law information center must, at all times, uphold the independence and integrity of the center in conjunction with its role within the court and the legal system.

(2) (*Role as representative of the court*) An attorney and other staff working in a center must recognize that they are representatives of the court and, as such, must avoid all acts of impropriety or the appearance of impropriety at all times.

(3) (*Impartiality and diligence*) A center attorney must perform his or her duties impartially and diligently. Impartiality includes not giving information to a party for the purpose of giving one party an advantage over another. In addition, a center attorney must not give information to one party that he or she would not give to the other party. Diligence requires that a center attorney provide the litigants with pertinent information to allow them to bring their matter before the court. This may include appropriate referrals to other resources as well as direct information and assistance at the center. The center attorney must require similar conduct of all center personnel.

(4) (*Respect and patience*) A center attorney must be aware of the social and economic differences that exist among litigants and maintain patience and respect for the litigants who seek the services of the center. The center attorney must require similar conduct of all center personnel. However, if a litigant becomes unruly or disruptive, the center attorney may ask the litigant to leave the center.

(5) (*Bias and prejudice*) A center attorney must assist the litigants who seek assistance from the center without exhibiting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status, or other similar factors, and must require similar conduct of all center personnel.

(6) (*Competent legal information*) A center attorney and his or her staff must provide the litigants who seek assistance from the center with substantial procedural and legal information so that the litigants will have increased access

1 to the court. The level of competence expected of the center attorney is to be  
2 measured within the limitations of the center format and the statutory and other  
3 guidelines and limitations that define the services to be provided by the center.  
4 The center is not intended to replace private counsel.  
5

6 (7) (*Full notification of limits of service*) A center attorney must ensure that  
7 conspicuous notice is given, as set forth in Family Code section 15010(g), that  
8 no attorney-client relationship exists between the center or its staff and the  
9 family law litigant. The notice must include the advice that the absence of an  
10 attorney-client relationship means that communications between the party and  
11 the family law information center are not privileged and that the family law  
12 information center may provide services to the other party. Additionally, the  
13 center must use Judicial Council form 1294.5, *Family Law Information Center*  
14 *Disclosure*, or provide similar notice of the warnings set forth in Family Code  
15 section 15010(i).  
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17 (8) (*Public comment*) A center attorney and his or her staff must at all times  
18 comply with Family Code section 15010(h) and must not make any public  
19 comment about the litigants or about any pending or impending matter in the  
20 court.  
21

22 (9) (*Gifts or payments*) A center attorney and his or her staff must not accept  
23 any gifts, favors, bequests, or loans from the litigants whom they assist, since  
24 this may give the appearance of impropriety or partiality, except for nominal  
25 gifts such as baked goods as allowed by local rules.  
26

27 (10) (*Communications with bench officers*) A center attorney and his or her  
28 staff must avoid all communication with a bench officer in which they offer an  
29 opinion as to how the bench officer should rule on a case pending before the  
30 bench officer. A center attorney, as an arm of the court, may neutrally provide  
31 factual information to the bench officer if the bench officer requests such factual  
32 information. Communications about purely procedural matters or the  
33 functioning of the court are allowed and encouraged.  
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35 (11) (*Communication with represented litigants*) A center attorney and his or  
36 her staff must not assist or communicate, directly or indirectly, with a litigant  
37 who is represented by an attorney. The center attorney and his or her staff must  
38 take steps to ensure that no litigants assisted by the center are represented by  
39 counsel, unless the center attorney has the consent of the litigant's attorney or  
40 the court has ordered the assistance.

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2 Advisory Committee Comments

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4 Family Code sections 15000–15012 established three pilot family law information centers  
5 to be administered by the Judicial Council for the purpose of providing information to  
6 unrepresented low-income family law litigants. The family law information centers provide  
7 information on types of relief available through the family court, what pleadings must be  
8 filed to obtain that relief, how to enforce court orders, and what requirements exist for  
9 proper service of court papers. The centers also provide referrals to community resources  
10 and assistance in preparing orders after court proceedings and they encourage parties to  
11 seek legal advice and assistance from an independent attorney.

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13 Family Code section 15010(b)(2) requires that the centers be supervised by an active  
14 member of the State Bar in good standing. However, section 15010(g) provides that “[t]he  
15 family law information center shall not represent any party. No attorney-client relationship  
16 is created between a party and the family law information center as a result of any  
17 information or services provided to the party by the family law information center pursuant  
18 to subdivision (c).”

19  
20 In order to help litigants understand the nature of the relationship between them and the  
21 family law information center, Family Code section 15010(g) directs that, “[t]he family law  
22 information center shall give conspicuous notice that no attorney-client relationship exists  
23 between the center, its staff, and the family law litigant. The notice shall include the advice  
24 that the absence of an attorney-client relationship means that communications between the  
25 party and the family law information center are not privileged, and that the family law  
26 information center may provide services to the other party.”

27  
28 While the party seeking the assistance of the family law information center does not have  
29 the traditional protection of attorney-client privilege, Family Code Section 15010(h) does  
30 prohibit “[a] person employed by, or directly supervised by, an employee of the family law  
31 information center” from making “any public comment about a pending or impending  
32 proceeding in the court as provided by paragraph (9) of subdivision (B) of Canon 3 of the  
33 Code of Judicial Ethics. All persons employed by, or directly supervised by, an employee  
34 of the family law information center shall be provided a copy of paragraph (9) of  
35 subdivision (B) of Canon 3 of the Code of Judicial Ethics, and shall be required to sign an  
36 acknowledgment that he or she is aware of its provisions.”

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38 These guidelines are not intended to be exclusive. To the extent that they apply, attorneys  
39 who work in the centers are also bound by the State Bar Act, the Rules of Professional  
40 Conduct, local and state court employee rules, and relevant opinions of the California

1 courts.

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3 The authorities that govern attorney conduct in California apply to all California attorneys  
4 regardless of the capacity in which they are acting in a particular matter. Libarian v. State  
5 Bar 25 Cal. 2d. 314 (1944). “Permission” not to comply with these authorities may not be  
6 given by the State Bar. Sheffield v. State Bar 22 Cal. 2d.627 (1943).

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8 Thus, California attorneys, regardless of the capacity in which they are performing in a  
9 particular matter, must conform their conduct to governing California authorities.  
10 However, because the disciplinary authorities are activity specific, not all authorities apply  
11 in all instances. For example, a transactional attorney who never appears in court is not  
12 likely to be at risk of violating the rules which govern court appearances. The transactional  
13 attorney is not immune from those rules, the nature of his or her practice simply minimizes  
14 the impact of those rules upon the services he or she performs. Thus, while center  
15 attorneys will not be immune from the governing authorities, certain rules and requirements  
16 will apply more directly to the nature of the services being provided than will others.

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18 Just as the Rules of Professional Conduct are activity specific in general professional  
19 practice, the same is true for center attorneys. Although the Rules of Professional Conduct  
20 and related authorities will apply generally, and will apply directly when the attorney is  
21 representing “clients” in an attorney-client relationship, they will not directly be invoked  
22 where a center attorney provides assistance to a non-client in a family law information  
23 center which does not, by definition, represent “clients”.

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25 To the extent that Family Code sections 15010(g) and (h) establish by law that there is no  
26 attorney-client relationship, or privilege, for services provided by a family law information  
27 center, the Rules of Professional Conduct that specifically address the attorney client  
28 relationship and the carrying out of that relationship would not be invoked. However, the  
29 Rules of Professional Conduct would govern attorneys employed by the centers who also  
30 continue to work with actual “clients” in an attorney client relationship.

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32 Although center attorneys are not exempt from the Rules of Professional Conduct, the  
33 employing court may promulgate guidelines for services provided by a center that are more  
34 applicable than some of the rules that are set forth in the Rules of Professional Conduct.  
35 The principles set forth in the California Code of Judicial Ethics are often more applicable  
36 to the centers. Those principles form the basis for these guidelines. The court may enforce  
37 the guidelines contained in these standards through its employee disciplinary process for  
38 court employees. Areas where the guidelines provide standards that are more applicable to  
39 the role of the family law information center as an entity of the court are as follows:

1 Rule 2-400 (Prohibited Discriminatory Conduct in Law Practice) – see proposed  
2 guideline 5 (Bias and prejudice);  
3 Rule 3-110 (Failing to Act Competently) - see proposed guideline 3 (Impartiality  
4 and diligence) and 6 (Competent legal information);  
5 Rule 3-120 (Sexual Relations with Client) - see proposed guideline 2 (Role as  
6 representative of the court);  
7 Rule 3-200 (Prohibited Objectives of Employment) - see proposed guideline 2  
8 (Role as representative of the court);  
9 Rule 3-210 (Advising the Violation of Law) - see proposed guideline 2 (Role as  
10 representative of the court);  
11 Rule 3-320 (Relationship with Other Party’s Lawyer) - see proposed guideline 2  
12 (Role as representative of the court);  
13 Rule 4-300 (Purchasing Property at a Foreclosure or a Sale Subject to Judicial  
14 Review) -  
15 see proposed guideline 2 (Role as representative of the court);  
16 Rule 4-400 (Gifts from Clients) - see proposed guideline 8 (Gifts from litigants);  
17 Rule 5-120 (Trial Publicity) - see proposed guideline 7 (Public comment);  
18 Rule 5-220 (Suppression of Evidence) - see proposed guideline 2 (Role as  
19 representative of the court);  
20 Rule 5-300 (Contact with Officials) - see proposed guideline 10 (Communications  
21 with judicial officers);  
22 Rule 5-310 (Prohibited Contact with Witnesses) - see proposed guideline 2 (Role as  
23 representative of the court);  
24 Rule 5-320 (Contact with Jurors) - see proposed guideline 2 (Role as representative  
25 of the court); and  
26 Rule 2-100 (Communication with a Represented Party) - see proposed guideline 11  
27 (Communication with represented litigant).  
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## DIVISION 16. FAMILY LAW INFORMATION CENTERS

### **§ 15000. Legislative findings and declaration**

(a) The Legislature finds and declares the following:

(1) A growing number of family law litigants are unrepresented in family law proceedings, and the primary reason for the lack of representation in these matters is their inability to afford legal assistance.

(2) The failure to have access to legal resources prevents low-income litigants from fully understanding their rights and remedies in family law proceedings, thereby restricting their access to justice.

(3) There is a compelling state interest in ensuring that all family law litigants better understand court procedures and requirements and all litigants have more meaningful access to family court.

(4) It is the public policy of this state to maximize the opportunity for low-income persons to receive fair and just treatment by the family court and to decrease inequities resulting from an unrepresented party's limited legal skills and knowledge.

(b) It is the intent of the Legislature to create information centers to help all low-income family law litigants better understand their obligations, rights, and remedies and to provide procedural information to enable them to better understand and maneuver through the family court system.

### **§ 15010. Establishment of pilot project; intent; family law information centers; purposes; evaluation and report to legislature**

(a) (1) It is the intent of the Legislature in enacting this section to establish a pilot project to be administered by the Judicial Council for the purpose of providing information to unrepresented low-income family law litigants.

(2) It is the intent of the Legislature, in creating this pilot project, to determine the most effective service delivery model to provide family law information and services to unrepresented litigants.

(3) It is the intent of the Legislature that all family law services available to litigants in the superior court of each county strive to adopt policies to most effectively coordinate their activities to ensure ease of access to

unrepresented litigants and to avoid unnecessary duplication of services and administrative oversight by the Judicial Council or other oversight agencies.

- (b)
  - (1) The pilot project shall consist of three pilot project courts that shall be selected by the Judicial Council from those courts that apply to participate in the pilot project. No court shall be required to apply for the project.
  - (2) The pilot project courts shall establish a family law information center located in the superior court, that shall be supervised by an active member of the State Bar in good standing.
  - (3) In superior courts with a family law facilitator, the pilot project shall coordinate its services with the services of the family law facilitator, and in at least one pilot project court, the family law facilitator shall staff and provide the services of the family law information center.
  - (4) In selecting the pilot project courts, the Judicial Council shall give priority to courts in counties that the Judicial Council determines are most underserved.
  - (5) The pilot project courts shall determine the composition and number of additional staff necessary to provide the services mandated by this section.
- (c) The family law information center shall provide, to unrepresented low- income litigants, information and services, including, but not limited to, the following:
  - (1) Information as to the nature of various types of relief available through the family court, including restraining orders, marital dissolution or legal separation, paternity, child or spousal support, disposition of property, and child custody and visitation, and the method to seek that relief.
  - (2) Information as to the pleadings necessary to be filed for relief and instructions on the proper completion of those pleadings, including information as to the importance of the information called for by the pleadings.
  - (3) Information concerning the requirements for proper service of court papers.
  - (4) Assistance in preparing orders after court proceedings consistent with the court's announced orders.

- (5) Information concerning methods of enforcing court orders in family law proceedings.
- (6) The family law information center shall maintain a directory of community resources, including, but not limited to, low-cost legal assistance, counseling, domestic violence shelters, parenting education, mental health services, and job placement programs.
- (7) The family law information center shall encourage parties to seek legal advice and assistance from an independent attorney.
- (d) For purposes of this division, "low-income" shall mean individuals whose net monthly income, after deduction of mandatory court ordered payments, is 200 percent or less of the current monthly poverty line annually established by the Secretary of Health and Human Services pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended. Family law litigants, prior to receiving the services of the family law information center, shall be required to sign a declaration attesting to their financial eligibility to receive those services. No other efforts to verify financial eligibility shall be necessary.
- (e) The family law information center shall provide interpreter services, to the extent available in the pilot project courts, and allow the use of translators to facilitate the services provided pursuant to subdivision (c).
- (f) The Judicial Council shall promulgate guidelines for the operation of the family law information center in accordance with the Rules of Professional Conduct.
- (g) The family law information center shall not represent any party. No attorney-client relationship is created between a party and the family law information center as a result of any information or services provided to the party by the family law information center pursuant to subdivision (c). The family law information center shall give conspicuous notice that no attorney- client relationship exists between the center, its staff, and the family law litigant. The notice shall include the advice that the absence of an attorney- client relationship means that communications between the party and the family law information center are not privileged, and that the family law information center may provide services to the other party.
- (h) A person employed by, or directly supervised by, an employee of the family law information center shall not make any public comment about a pending or impending proceeding in the court as provided by paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics. All persons employed by, or directly supervised by, an employee of the family law information center shall be provided a copy of paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial

Ethics, and shall be required to sign an acknowledgment that he or she is aware of its provisions.

(i) The Judicial Council shall create any necessary forms to advise the parties of the types of services provided, that there is no attorney-client relationship, that the family law information center is not responsible for the outcome of any case, that the family law information center does not represent any party and will not appear in court on the party's behalf, and that the other party may also be receiving information and services from the family law information center.

(j) A pilot project court may contract with a private nonprofit entity to staff and provide the services of the family law information center; however, the family law information center must be located, and the services provided, in the superior court.

(k) The Judicial Council shall conduct an evaluation of the pilot project and shall report to the Legislature, no later than March 1, 2003, on the success of the pilot project. The evaluation shall include outcome measures that address increased access to the courts for low-income litigants and any reduced burden on the courts by having the services of the family law information center available. The evaluation shall include an assessment of the number of people using the services of the family law information center, categorized by gender and by type of information sought, including information regarding marital dissolution, paternity, or domestic violence prevention proceedings, or relating to child custody, visitation, child support, or spousal support. The evaluation shall also assess the frequency with which people seek information from the family law information center to initiate an action or to respond to an action. The pilot project shall be deemed a success if, among other things, the pilot project court assists at least 100 low-income family law litigants in each year of its operation, a majority of the judges surveyed in the pilot project court believe the family law information center helps to expedite family law cases with pro per litigants, and a majority of the persons using the family law information center evaluate the services of the family law information center favorably.

#### **§ 15012. Duration of division**

This division shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute deletes or extends that date.